

COUNTY OF YORK

MEMORANDUM

DATE: August 30, 2004 (PC Mtg. 9/8/04)

TO: York County Planning Commission

FROM: Timothy C. Cross, AICP, Principal Planner

SUBJECT: Application Nos. ZM-88-04 and UP-646-04,
King's Creek Developers, L.L.C.

ISSUE

Application Nos. ZM-88-04 and UP-646-04 are two components of a single development proposal and therefore are being considered together.

- **Application No. ZM-88-04** seeks to amend the York County Zoning Map by reclassifying, subject to voluntarily proffered conditions, approximately 25.1 acres located on the south side of Penniman Road from RR (Rural Residential) to EO (Economic Opportunity). The property is further identified as portions of Assessor's Parcel Nos. 11-3-E and 11-3-F.
- **Application No. UP-538-98**, which is contingent on approval of the rezoning application, is a request for a Special Use Permit to authorize the construction of up to 400 timeshare units on the above-referenced property.

DESCRIPTION

- Property Owner: Alexander W. Jones et ux et al; applicant is contract purchaser.
- Location: 1681 Penniman Road (Route 641) and 112 Jones Drive (private road)
- Area: Approximately 25.1 acres
- Frontage: Approximately 80 feet on Route 199
- Utilities: Public water is available; sanitary sewer service is not currently available.
- Topography: Moderate and steep slopes are present throughout the site.
- 2015 Land Use Map Designation: Economic Opportunity and Low-Density Residential
- Zoning Classification: RR – Rural Residential
- Existing Development: Two single-family detached homes

- Surrounding Development:

North: Single-family detached home; Cheatham Annex beyond (across Penniman Road)
East: Five single-family detached homes and undeveloped property along Springfield Road (Route 687)
South: Undeveloped property of King's Creek Plantation
West: Three single-family detached homes and undeveloped property of King's Creek Plantation

- Proposed Development: A maximum of 400 timeshare units

CONSIDERATIONS/CONCLUSIONS

1. On December 17, 1997, the Board of Supervisors approved an application (Application No. ZM-24-97) to rezone 147.3 acres along the Route 199/Penniman Road corridor to Conditional EO (Economic Opportunity) and an application for a Special Use Permit (Application No. UP-524-97) to authorize the establishment of a 1,100-unit timeshare resort, to be known as King's Creek Plantation, on this property. Construction is underway on this project, which is approximately 24% completed. The developer subsequently purchased four adjacent parcels, encompassing a total of 6.44 acres, and received approval from the Board of a rezoning and a Special Use Permit for the purpose of incorporating them into the project. King's Creek Developers, LLC now has a contract to purchase portions of two adjacent parcels, encompassing a total of 25.1 acres, and wishes to construct up to 400 timeshare units thereon as part of King's Creek Plantation.
2. Both parcels are owned by a single property owner, who lives in a single-family detached home located on one of the parcels (112 Jones Drive), which is approximately 5.91 acres in area. She wishes to retain this home site, while conveying the remainder of the property to the applicant for time-share development. She also wishes to sell most of the second parcel, which measures 22.43 acres in area, to King's Creek Plantation while retaining a home site on for a family member. To accomplish this, the applicant is seeking to rezone from RR to EO all but 1.5 acres of each parcel, which corresponds with the minimum lot size for a single-family detached home when public water is available and public sewer is not, which is the case for these parcels. When this property is developed for time-share units, the developer will extend public sewer to this area, including the two home sites, which will then be subject to the customary one-acre minimum lot size in the RR zoning district. At that time, the applicant plans to purchase an additional half-acre from each of these properties and apply for another rezoning and Special Use Permit for the purpose of incorporating the additional acre into the timeshare resort.
3. The Comprehensive Plan designates most of this area as Economic Opportunity. The Economic Opportunity designation "recognizes the presence of a full I-64 interchange and the potential for extension of public utilities to serve a mix of office, commercial, tourist-related, and light industrial uses." Because of its proximity to the greater

Williamsburg area, Busch Gardens, Water Country USA, historic Yorktown, and a full interchange at Interstate 64, this property is ideally situated for tourist-oriented commercial development such as timeshare units. The plan also notes “The Springfield Road/Jones Drive area along Penniman Road contains scattered residential development and is designated Low Density Residential.” Jones Drive is a private road that currently serves one single-family detached home, which is a subject of this application. None of the property proposed for rezoning abuts Springfield Road.

4. The applicant has proffered that the property will be developed exclusively for timeshare units and that development will be in general conformance with the submitted sketch plan. Although the sketch plan does not show any buildings, it does depict the transitional buffers described above (which are slightly above the minimum Zoning Ordinance requirements) and the proposed emergency access. Specifically, the applicant has proffered that access to the subject property will be internal to the development (off of the existing Tranquility Drive, which is a private street) so that, other than a proposed gated emergency access that the developer has proffered to provide if the Department of Fire and Life Safety deems it necessary, there will not be an additional entrance on Penniman Road. The Department of Fire and Life Safety has indicated that the emergency access road will in fact be required.

The applicant also submitted a project narrative, which is referenced in the proffer statement and states that development of the property “will continue the architectural theme introduced in the first five phases of KCP, and landscaping treatments will similarly complement the extensive landscaping installed in the first five phases.” With regard to the types of units that could be built, the project narrative states that the additional units would consist of one or more of the following unit types:

- Single-story, 2-unit per structure detached structures (cottages)
 - Single-story, 4-unit per structure detached structures (duplexes)
 - Two- to six-story, 4-unit to 90-unit per structure attached structures (mid-rise)
5. Approximately 270 units have been constructed in King's Creek Plantation so far. Existing development consists of a mix of detached and attached units, some with lockout units and some without. There was also a plan – approved by the Board of Supervisors in February 2001 through an amendment to the original use permit – to construct a five-story 90-unit lodge-style building on an interior portion of the development; the applicant later changed his plans and chose not to pursue this option, although he wants to retain this option for the property currently under consideration. If these applications are approved, the maximum gross density of the development, at full build-out, would increase from approximately 7.0 to 8.2 units per acre. By itself, the subject property would have a maximum gross density of approximately 16 units per acre. Since steep slopes and the Chesapeake Bay Resource Protection Area preclude development on portions of the site, the *net* density would be somewhat higher.

6. The applicant has submitted a sketch plan for the property that does not show how the property will be developed. This is because the applicant has no immediate plans to develop the subject property and therefore has not done the detailed engineering necessary to determine the ultimate layout for this portion of the development. (This approach was also utilized for the rear portion of the property rezoned for King's Creek Plantation in 1997.) Although the lack of specificity is understandable since the property will not likely be developed for several years, staff has concerns about giving blanket approval to a project where potential development ranges from small single-family cottages to multiple five-story 90-unit buildings, particularly on an environmentally sensitive tract of land with a proposed maximum density – approximately 16 units per acre – that is considerably higher than the approved density for the overall development. One of the considerations cited by staff in its recommendation to approve a 90-unit lodge-style building on existing property of Kings Creek Plantation was its location on an interior portion of the development and its lack of visibility. There are no such assurances for the site currently under consideration; therefore, staff recommends a condition of approval specifying that no lodge-style structure will be permitted within 125 feet of any of the residential properties on Springfield Road, Penniman Road, or Jones Drive.
7. The property proposed for rezoning abuts several residentially zoned parcels, but the number of actual adjacent homes is approximately six – four that front on Penniman Road and two on Springfield Road. If the rezoning application is approved, the applicant has proffered to provide a continuous Type 35 (35') landscaped transitional buffer along the entire eastern boundary (between the proposed timeshares and residential property on Springfield Road) and along the western boundary abutting residential parcels on Penniman Road. Where the timeshare development would abut the two home sites that are part of this application (one existing and one future), the current owners of the parcels have agreed to provide the Type 35 transitional buffers on the residential side of the property line. Ordinarily the Zoning Ordinance would require the timeshare developer to provide only a 17.5-foot buffer – or no buffer at all, depending on the lot size – where the timeshare property abuts undeveloped RR-zoned property.
8. The applicant has submitted a traffic impact analysis for the proposed expansion of King's Creek Plantation. Based on traffic counts recently taken at Kings Creek Plantation, the applicant's traffic engineer estimates that the proposed expansion would generate an additional 72 average daily trips in the AM peak hour and 78 in the PM peak hour. The development has a single point of access to the public road system where Tranquility Drive – the private entrance road into the development – intersects Penniman Road and Route 199, forming an unsignalized four-way intersection. As the project approaches build-out, increased delays will be experienced by cars exiting the resort. The likely effect on the public road system, as stated in the traffic study, is "that an increasing number of drivers leaving King's Creek Plantation will turn right and use the Colonial Parkway as an alternative route. This will add trips to a lower capacity road, rather than utilizing the higher capacity arterial, Route 199, available if vehicles exit by turning left. As delays increase, some drivers may attempt to turn into shorter gaps in traffic. This increases the risk of incidents at the intersection and will

impose delays on the through traffic when the through vehicles brake to avoid collision with the KCP traffic.” Staff and the Virginia Department of Transportation (VDOT) share these concerns, and for that reason a condition of previous site plan approvals for Kings Creek Plantation requires the developer to conduct a signal warrant analysis prior to the completion of 75% (825 units) of the original 1,100 units to determine if a traffic signal is needed at this intersection. According to the applicant’s traffic engineer, it is likely that a signal will be needed at that time and that, with a traffic signal in place, the addition of 400 units will not make a difference. Staff believes that, in the event that the signal warrants are not met at 75% of build-out, the developer should be required to perform a second signal warrant analysis prior to the construction of the 1,101st unit. A proposed condition of approval attempts to accomplish this.

9. In accordance with the Historic Resources Management Overlay District standards set forth in Section 24.1-374(d) of the Zoning Ordinance, the applicant submitted a Phase I archeological study for this project. Archeologists conducted 273 shovel tests that yielded a handful of artifacts that are, according to the applicant’s archeological consultants, ephemeral in nature and lacking in research value. Staff has forwarded a copy of the study to the Virginia Department of Historic Resources (DHR) for its review. Barring a contrary opinion from DHR, staff does not recommend that the applicant be required to submit a Phase II study for the subject property.
10. The subject property has several environmental constraints including steep slopes (greater than 20%), wetlands, and a Chesapeake Bay Resource Protection Area (RPA). Accordingly, any development on this property will be subject to the provisions of the Environmental Management Area Overlay District set forth in the Zoning Ordinance, which require the submission of a Natural Resources Inventory and, in the event that any permitted development – such as walking trails – is constructed in the RPA, a Water Quality Impact Assessment.
11. Kings Creek Plantation and the timeshare industry in general have had a significant positive impact on York County’s economy. According to the Commissioner of the Revenue, King’s Creek Plantation is the eighth highest property taxpayer in the County, with a total assessed valuation of over \$24 million and annual revenues, in FY04, of \$211,700. According to the applicant, other taxes and fees generate additional revenues in excess of \$500,000 annually. King’s Creek Plantation is also the sixth-largest private employer in the County, employing over 200 total workers (full-time and part-time). Fairfield, which owns and operates three timeshare resorts in the County, ranks third on the list of principal property taxpayers and fourth among major private employers. These figures do not include the immeasurable spin-off effects – such as sales and meals tax revenue – of timeshares and the visitors who inhabit them. Clearly the timeshare industry has assumed a large role in the County’s tax base and employment base.

RECOMMENDATION

King's Creek Plantation is an attractive development that gives visitors a favorable impression of the County along a major gateway into historic Yorktown, and if the property is developed utilizing the same development character and design theme, it would, in staff's opinion, have no adverse impacts on surrounding properties or on County services, facilities, and infrastructure. However, the application and proffers as structured create the potential for the development of up to four 90-unit "lodge-style" structures, each measuring six stories and up to 75 feet in height. It should also be noted that the requested development density for the subject property is over twice the approved density for King's Creek Plantation. To protect residentially zoned properties from visual and noise impacts associated with large-scale structures, staff recommends that any timeshare units within 125 feet of any residential property line be limited to cottages and duplexes only.

The Comprehensive Plan envisions this area as a prime location for tourist-oriented commercial development while respecting the need to protect existing residences in the area, and staff believes that, with the proffered transitional buffers and the proposed limitation on six-story structures, these applications are generally consistent with that guidance. Therefore, staff recommends that the Commission forward Application Nos. ZM-88-04 and UP-646-04 to the Board of Supervisors with a recommendation of approval. This may be accomplished through the adoption of Resolution Nos. PC04-24 and PC04-25, respectively.

TCC

Attachments

- Zoning Map
- Vicinity Map
- Zoning Plat
- Sketch Plan
- Composite Exhibit
- Proffer Statement
- Project Narrative
- Resolution No. PC04-24 (rezoning)
- Resolution No. PC04-25 (use permit)

Copy to: Billie Millner